

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JANE ROE 1 AND JANE ROE 2 on behalf of
themselves and on behalf of other similarly
situated individuals, and DREAMGIRLS AT
FOX'S LLC, a Washington Limited Liability
Corporation

Plaintiffs,

vs.

JULIE ANDERSON, Pierce County Auditor,
PIERCE COUNTY, a county in the State of
Washington, and DAVID VAN VLEET

Defendants.

Cause No.

**COMPLAINT FOR
INJUNCTIVE AND
DECLARATORY RELIEF**

CLASS ACTION

Plaintiffs allege as follows:

I. INTRODUCTORY STATEMENT

1.1 This is a class action seeking injunctive and declaratory relief pursuant to Title 42 United States Code § 1983. The action is brought on behalf of managers and dancers at Dreamgirls at Fox's, a nightclub in unincorporated Pierce County that features nude dancing and erotic entertainment. Plaintiffs are seeking injunctive and declaratory relief to prevent Defendants Anderson and Pierce County from disclosing copies of the manager and dancer

COMPLAINT FOR INJUNCTIVE AND
DECLARATORY RELIEF - 1

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1 licenses pursuant to a State Law public records request made by Defendant Van Vleet. Plaintiffs
2 allege that disclosure of the licenses will violate their rights to freedom of speech and privacy
3 under the United States Constitution, their rights to freedom of speech and privacy under the
4 Washington Constitution, and their common law right of privacy. Plaintiffs maintain that they
5 will suffer irreparable injury unless they are granted injunctive relief and declaratory relief and
6 there is no adequate remedy at law.

7 II. JURISDICTION AND VENUE

8 2.1 The Court is vested with jurisdiction to hear this matter pursuant to Title 28 United
9 States Code § 1343(3).

10 2.2 The acts complained of herein have occurred and are threatening to occur in Pierce
11 County, Washington. Defendants Anderson and Pierce County maintain offices and transact
12 business in Pierce County, Washington.

13 III. PARTIES

14 3.1 Plaintiff Jane Roe 1 is resident of the State of Washington. She is a licensed manager
15 at the business known as Dreamgirls at Fox's in Pierce County, Washington.

16 3.2 Plaintiff Jane Roe 2 is a resident of the State of Washington. She is a licensed dancer
17 working at Dreamgirls at Fox's in Pierce County Washington.

18 3.3 The class consists of Plaintiffs Jane Roe 1 and Jane Roe 2, approximately 70 licensed
19 managers, and dancers who are currently working at Dreamgirls at Fox's, and those persons who
20 formerly worked at Dreamgirls at Fox's whose licenses are still maintained by the Pierce County
21 Auditor's Office.

1 3.4 Dreamgirls at Fox's LLC is a Washington limited liability corporation in good
2 standing. Dreamgirls at Fox's LLC is the owner and operator of the business known a
3 Dreamgirl's at Fox's and has standing to assert freedom of speech and privacy claims on behalf
4 of managers and dancers who work or who in the future intend to work at the business.

5 3.5 The Defendant Julie Anderson is the Pierce County Auditor. Suit is brought against
6 her only in her representative capacity. Her office is a subdivision of the Defendant Pierce
7 County and is charged with the responsibility of maintaining dancer and manager licenses. Her
8 office is an "agency" as defined in RCW 42.17.020(1), a section of the Washington Public
9 Records Act, (hereinafter "PRA").

10 3.6 Defendant Pierce County is a County in the State of Washington. Defendant Pierce
11 County is an "agency" as defined in RCW 42.17.020(1), a section of the PRA.

12 3.7 On information and belief, Defendant David Van Vleet is a resident of the State of
13 Washington. He is the individual that made the public disclosure request that is the subject of
14 this lawsuit.

15 IV. FACTUAL BASIS OF THE COMPLAINT

16 4.1 At all times material hereto, Plaintiffs Jane Roe 1, Jane Roe 2, members of the class
17 they represent, and Plaintiff Dreamgirls at Fox's LLC have been engaged and continue to be
18 engaged in activities protected by the First Amendment to the United States Constitution and
19 Article 1, Section 5 of the Washington Constitution.

20 4.2 The business known as Dreamgirls at Fox's is an "erotic dance studio" as that term is
21 defined Pierce County Code, (also referred to herein as "PCC") § 5.14.010(D). The business is
22 located at 10707 Pacific Avenue in Pierce County Washington and is subject to the provisions of
23

1 the Pierce County Code. The business features nude dancing and erotic entertainment and is the
2 only business of its kind in unincorporated Pierce County.

3 4.3 Plaintiff Jane Roe 1 and those members of the class that she represents are
4 “managers” as that term is defined in PCC § 5.14.010(E).

5 4.4 Plaintiff Jane Roe 2 and those members of the class she represents are “dancers” as
6 that term is defined in PCC § 5.14.010(B).

7 4.5 Under PCC §§ 5.14.100 and 5.14.110, “managers” and “dancers” at an “erotic dance
8 studio” are required to apply for and maintain managers’ and dancers’ licenses that are issued by
9 the Pierce County Auditor. Under PCC §§ 5.14.080 and 5.14.090, these licenses expire and are
10 required to renewal on an annual basis.

11 4.6 Dancers at Dreamgirls at Fox’s while identify themselves to patrons by a pseudonym
12 commonly known as a “stage name”. The purpose of the stage name is to maintain the dancers’
13 privacy and to protect them from stalking, harassment, discrimination, public embarrassment,
14 and violence when they are outside the club.

15 4.7 Information contained on the manager’s license includes the person’s true name, date
16 of birth, physical description, and the person’s photograph.

17 4.8 Information contained on the dancer’s license includes the person’s true name, stage
18 name, date of birth, physical description, and the person’s photograph.

19 4.9 Defendant Anderson maintains copies of all manager and dancer licenses that are
20 issued by her office.

21 4.10 The manager and dancer licenses issued and maintained by Defendant Anderson are
22 “public records” within the meaning of RCW §§ 42.17.020(36), a section of the PRA.
23

1 4.11 "Agencies" such as the Auditor's Office and Defendant Pierce County are required
2 by the PRA to disclose public records upon request to anyone making the request and disclosure
3 of the records is mandatory. The only public records protected from disclosure are those
4 specifically mentioned in a statutory exemption. RCW 42.56.070(1), a section of the PRA,
5 provides in part:

6 Each agency, in accordance with published rules, shall make available for public
7 inspection and copying all public records, unless the record falls within the
8 specific exemptions of subsection (6) of this section, this chapter, or other statute,
9 which exempts or prohibits disclosure of specific information or records.

10 4.12 There is no "specific exemption" in the PRA which exempts or prohibits disclosure
11 of manager or dancer licenses issued and maintained by the Auditor pursuant to the requirements
12 of the Pierce County Code.

13 4.13 On or about September 18, 2014, Defendant Van Vleet made a written public
14 disclosure request to Defendant Anderson requesting disclosure of all licenses for persons
15 working as dancers and managers at Dreamgirls at Fox's.

16 4.14 On or about September 22, 2014, the Pierce County Auditors Office sent written
17 notice to all licensed managers and dancers at Dreamgirls at Fox's informing them of Defendant
18 Van Vleet's public disclosure request and informing them that the documents sought by Van
19 Vleet would be disclosed to him unless a court order was obtained on or before October 17, 2014.

20 4.15 Disclosure of Plaintiffs' true name and date of birth will enable Defendant Van
21 Vleet and others to obtain additional personal information about them including their address,
22 telephone number, and the identities of their friends and family members.
23

1 4.16 Plaintiffs Jane Roe 1, Jane Roe 2, and members of the class are likely to be subject
2 to stalking, harassment, discrimination, embarrassment and acts of violence if the information
3 sought by Defendant Van Vleet is disclosed.

4 4.17 The threatened disclosure of the information sought by Defendant Van Vleet will
5 have a chilling effect on the exercise of free speech rights. Named Plaintiffs and members of the
6 class may choose to discontinue dancing or may choose not to renew their licenses for fear of
7 stalking, harassment, discrimination, embarrassment and acts of violence. Future applicants may
8 choose not to apply for licenses or engage in protected activity for fear of these consequences.

9 4.18 Plaintiffs Jane Roe 1 and Jane Roe 2 and members of the class have a privacy
10 interest in the information sought by Defendant Van Vleet. Disclosure of the information sought
11 by his request will jeopardize Plaintiffs' safety. There is no legitimate public interest in
12 disclosure of the information sought by Defendant Van Vleet.

13 4.19 Defendant VanVleet has a history of engaging in frivolous litigation and harassment
14 of others. In a number of instances, legal actions that he instituted were dismissed by the court
15 due to lack of merit, failure to attend court proceedings, or failure to comply with discovery
16 obligations. He has been the subject of an anti harassment protection order. In 2005, he was
17 convicted in separate cases of violating protective orders in Kent Municipal Court. Defendant
18 Van Vleet has no legitimate interest in the information sought by his public disclosure request.

19 4.20 There is a likelihood of re-occurrence unless disclosure of manager and dancer
20 licensing information is permanently enjoined by the Court. A prior public disclosure request
21 similar to the one at issue in this case was enjoined by the Pierce County Superior Court. Similar
22 public disclosure requests are likely to be made in the future.
23

V. FIRST CLAIM- FIRST AMENDMENT

5.1 Plaintiffs repeat and re-allege the allegations in paragraphs 1.1 through 4.20.

5.2 Plaintiffs and members of the class are immediately threatened with violation of their First Amendment rights and are entitled to injunctive and declaratory relief pursuant to Title 42 United States Code § 1983.

VI. SECOND CLAIM – RIGHT OF PRIVACY

6.1 Plaintiffs repeat and re-allege the allegations in paragraphs 1.1 through 4.20.

6.2 Plaintiffs and members of the class are immediately threatened with violation of their Federal Constitutional Right of Privacy and are entitled to injunctive and declaratory relief pursuant to Title 42 United States Code § 1983.

VII. THIRD CLAIM – STATE CONSTITUTION

7.1 Plaintiffs repeat and re-allege the allegations in paragraphs 1.1 through 4.20.

7.2 Plaintiffs and members of the class are immediately threatened with violation of their rights to freedom of speech and privacy under Article 1, Sections 5 and 7 of the Washington Constitution. Plaintiffs are entitled to injunctive and declaratory relief under applicable sections of the Revised Code of Washington.

VIII. FOURTH CLAIM – COMMON LAW PRIVACY

8.1 Plaintiffs repeat and re-allege the allegations in paragraphs 1.1 through 4.20.

8.2 Plaintiffs and members of the class are immediately threatened with violation of their common law right of privacy. Plaintiffs are entitled to injunctive and declaratory relief under applicable sections of the Revised Code of Washington.

IX. CLASS ACTION ALLEGATIONS

9.1 Plaintiffs repeat and re-allege the allegations in paragraphs 1.1 through 4.20.

9.2 This action is properly maintainable as a class action pursuant to Federal Rule of Civil Procedure 23, subsections (b)(1)(B), (b)(2) and (b)(3).

9.3 The class consists of approximately 70 dancers and managers currently licensed by the Pierce County Auditor presently working at Dreamgirls at Fox's. It also consists of those persons who previously worked at Fox's but whose licenses are still on file with the Auditor's Office. The class is therefore so numerous that joinder is impractical.

9.4 There are questions of fact common to all members of the class consisting of whether class members would suffer substantial and irreparable injuries as a result of disclosure of the information sought by Defendant Van Vleet's public disclosure request.

9.6 There are questions of law common to all members of the class consisting of whether disclosure of the information sought by Defendant Van Vleet's public disclosure request would violate the class members' rights to freedom of speech and privacy.

9.7 The claims of Plaintiffs Jane Roe 1 and Jane Roe 2 are typical of the class generally because their claims arise from the same event or practice or course of conduct that gives rise to the claims of other class members and are based on the same legal theories.

9.8 Plaintiffs Jane Roe 1 and Jane Roe 2 will fairly and adequately protect the interests of the class because their interests are identical to the interests of other class members, they have sufficient resources to prosecute this action and have retained experienced and competent counsel in the subject, specialized area of the law.

1 9.9 Class certification is appropriate under Federal Civil Rule 23(b)(1)(B) because
2 prosecution of separate actions by individual members of the class against the Defendants would,
3 as a practical matter, be dispositive of other members of the class not parties to the adjudications
4 and would substantially impair or impede their ability to protect their interests.

5 9.10 Class certification is appropriate under Federal Civil Rule 23(b)(2) because Mr. Van
6 Vleet has acted on grounds applicable to all members of the class when he made the public
7 disclosure request, thereby making appropriate final injunctive relief or corresponding
8 declaratory relief with respect to the class as a whole.

9 9.11 Class certification is appropriate under Federal Civil Rule 23(b)(3) because
10 questions of law or fact common to members of the class predominate over any questions
11 affecting only individual members, and that a class action is superior to other available methods
12 for the fair and efficient adjudication of the controversy. In this case, there are only common
13 questions of law and fact among members of the class and other available methods for fair and
14 efficient adjudication of the controversy would only result in an unreasonable and unnecessary
15 waste of judicial resources.

16
17 X. PRAYER FOR RELIEF

18 10.1 Plaintiffs request a temporary restraining order preventing Defendants Pierce
19 County and Anderson from complying with the public disclosure request pending a hearing on
20 the their motion for a preliminary injunction.

1 10.2 Plaintiffs request an order to show cause requiring the Defendants to appear and
2 show cause why the Court should not issue a preliminary injunction preventing compliance with
3 Defendant Van Vleet's public disclosure request pending trial on the merits.

4 10.3 Plaintiffs request entry of an order of class certification permitting this matter to go
5 forward as a class action.

6 10.4 Plaintiffs request entry of an order declaring that disclosure of the documents
7 requested herein is a violation of Plaintiffs' rights to freedom speech and privacy and
8 permanently enjoining Defendants Anderson and Pierce County from disclosing the same to any
9 member of the public.

10 10.5 Plaintiffs request an award of court costs and attorney fees pursuant to Title 42
11 United States Code § 1988.

12 DATED: October 13, 2014.

13
14
15 /s/ Gilbert H. Levy
 Gilbert H. Levy, WSBA #4805
 Attorney for Plaintiffs

16
17 /s/ Jennifer Kaplan
 Jennifer Kaplan, WSBA #40937
 Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I certify that on October 13, 2014, I caused to be electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the attorney(s) of record.

I further certified that on this date I caused a copy of the foregoing to be delivered to Defendant David Van Vleet by mailing the same to him by United States Mail, postage pre-paid at the following address: Post Office Box 2277, Auburn WA 98071-2277.

/s/Gilbert H. Levy
Gilbert H. Levy WSBA# 4805
Attorney for Plaintiffs